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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,773	03/16/2007	Adrianus Johannes Den Hartog	APV31936	5035

77213 7590 09/02/2008

Novak Druce + Quigg, LLP  
1300 Eye Street, NW, Suite 1000  
Suite 1000, West Tower  
Washington, DC 20005

EXAMINER
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BELL, WILLIAM P

ART UNIT	PAPER NUMBER
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4151

MAIL DATE	DELIVERY MODE
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09/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/582,773	Applicant(s) DEN HARTOG ET AL.	
	Examiner WILLIAM P. BELL	Art Unit 4151	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/13/2006</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to because the photographs provided as Figures 1-3 are poorly rendered and as such are not capable of proper and accurate interpretation. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: the terms "ECCS" (Page 3, Line 1 of Example 1 and Page 4, Line 3 of Paragraph 2) and "DRD" (Page 4, Line 3 of Paragraph 2) lack proper antecedent basis. Neither acronym is defined in the specification.

Appropriate correction is required.

### ***Claim Objections***

4. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 5 recites the method of claim 1 wherein the method inhibits the attack by acetic acid of the thermoplastic polymer coated on the metal container body and/or end, but provides no process steps above and beyond those of claim 1.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Colburn (U. S. Patent 4,450,977). Regarding claim 1, Colburn teaches a method comprising flash heat treating ("rapid heating"; see Column 6, Line 47) a whole polymer coated metal container ("can bodies formed by the draw-redraw process from the above-described multilayered plastic coated steel sheet material"; see Column 6, Lines 25-27) such that the polymer is heated to above its melting temperature ("subjected the multilayered plastic coated draw-redraw can body, after its formation but prior to any food or beverage filling and processing operations, to a temperature above the crystalline melting point of the highest melting point resin employed in said multilayered coating" (see Column 6, Lines 33-38)). While applicant claims a method to inhibit the attack by organic acid on the coated metal container, he does not recite any step in his method that is not taught by Colburn. Therefore the method of Colburn would inherently provide the ability to inhibit the attack by organic acid on the coated metal container.

Regarding claims 2 and 6, Colburn teaches a method wherein the polymer is kept above its melting temperature for a period of less than 10 seconds and less than 5 seconds ("when more rapid heating means are employed, such as, for example,

induction heating techniques, much shorter heating cycles such as, for example, on the order of only a few seconds or so can be sufficient”; see Column 6, Lines 46-50.

Regarding claim 3, Colburn teaches a method wherein the polymer is heated to above the melting temperature of the polymer by induction heating (“induction heating techniques”; see Column 6, Line 48).

Regarding claim 4, Colburn teaches a method wherein after flash heating treating the container is kept at a temperature below the melting temperature of the polymer (“cooling to room temperature”; see Column 7, Lines 41-42, wherein room temperature is clearly below the melting temperature of the polymer).

Regarding claim 5, Colburn teaches the method of claim 1 as discussed above. Applicant recites a purported benefit to the method of claim 1, but provides no additional method steps in claim 5. Therefore, a reasonable interpretation of the claim would be that the method of claim 1 is sufficient to and implicitly inhibit attack by acetic acid on the thermoplastic polymer coated to the metal container body and/or end.

Regarding claim 7, Colburn teaches a method wherein after flash heat treating (col. 6, Ins. 45-50) the container is kept at a temperature below the melting temperature of the polymer in a temperature range where crystallization of the polymer occurs (col. 7, Ins. 40-42). As discussed above regarding claim 4, Colburn teaches that the container is cooled to room temperature after it is subjected to a temperature above the melting temperature of the polymer coating. One of skill in the art knows that polymers are capable of crystallization at temperatures between their glass transition temperatures and their melting temperatures, where the glass transition temperature is

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always less than the melting temperature. During the cooling process taught by Colburn, the temperature of the container must implicitly at some point lie between the melting temperature of the polymer and the glass transition temperature of the polymer. Therefore it would also be in a range below the melting point of the polymer where crystallization may occur.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aizawa (Japan Patent No. JP 54141886) teaches a method of heat treating thermoplastic resin-coated metal materials at the melting temperature of the resin and subsequent quenching of the coated material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM P. BELL whose telephone number is (571)270-7067. The examiner can normally be reached on Monday - Thursday, 7:30 am - 5:00 pm; Alternating Fridays, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Ortiz can be reached on 571-272-1206. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

wpb

*/Angela Ortiz/*

***Supervisory Patent Examiner, Art Unit 4151***